



Animal Protection Index (API) 2020

Republic of Kenya: ranking D

Executive summary

The main source of animal welfare legislation in Kenya is the Prevention of Cruelty to Animals Act 1962, revised in 2012, which applies to all vertebrates. Rodeos and animal fights are prohibited. The Act also prohibits placement of traps and snares that cause unnecessary suffering to an animal and failing to check on a trapped animal. Remarkably, the Wildlife Conservation and Management Act 2013 forbids recreational hunting, which includes trophy hunting (Eighth Schedule, 10).

However, there is room for improvement in many domains related to animal welfare. In particular, the Prevention of Cruelty to Animals Act allows for the slaughter of animals without stunning in certain circumstances. The Rabies Act 1967 previously authorised the culling of stray dogs. In 2019, the Control of Stray Dogs Act replaced the Rabies Act, yet this new law still authorises the euthanasia of stray animals considered dangerous, or whose owners are unknown or are unwilling to remove the animal.

Since the API was first published in 2014, an Animal Welfare and Protection Bill 2019 was drafted. If passed, this Bill will greatly improve the lives of animals. Notably, this Bill explicitly recognises all animals – not only vertebrates – as sentient beings. Moreover, it mandates the stunning of animals before slaughter and requires all animals used for experiments to be under the influence of anaesthetics. Therefore, the Government of Kenya is highly encouraged to adopt this Bill. In addition, the Kenya Veterinary Policy was updated in 2015 and a new Draft Livestock Policy exists since 2019, in both of which the protection of animal welfare has been specifically recognised.

In Kenya, the national government is responsible for the protection of wild animals in conservation areas while the county governments are mandated to ensure the welfare of domestic animals including livestock and companion animals. The Department of Veterinary Services, a sub-department of the Ministry of Agriculture, Livestock and Fisheries, is responsible for animal welfare. The Department aims to prevent and control animal diseases to safeguard human health, improve animal welfare, increase livestock productivity and facilitate domestic and international trade. The Kenya Wildlife Service is responsible for wildlife conservation. If passed, the Animal Welfare and Protection Bill 2019 will establish the creation of a County Animal Welfare Unit in each County Government. Where established, such units would be required to monitor and report on animal welfare matters and would include members from animal welfare non-governmental organisations.

The Government of Kenya is strongly encouraged to adopt as soon as possible the Animal Welfare and Protection Bill 2019, which recognises all animals as sentient. Furthermore, the Government of Kenya is urged to ban the current culling practices of stray animals, to rather implement humane stray animal populations programmes. Additionally, the Government of Kenya is strongly encouraged to implement a comprehensive ban for all animals to perform publicly, whether trained or untrained. Current Kenyan legislation would also benefit from outlining species-specific welfare standards with



regards to farm animals and wild animals in captivity. Further legal and policy recommendations are associated with each Animal Protection Index (API) indicator and contained in the relevant sections of this report.



Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and the importance of animal protection as a societal value

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	D
<p>Animals are not formally defined as 'sentient' in the legislation, however, current Kenyan legislation recognises aspects of sentience. For instance, the Prevention of Cruelty to Animals Act 1962¹ recognises the ability of animals to suffer, which is one of the first steps towards recognition of animal sentience.</p> <p>Kenya's Constitution, promulgated in 2010, acknowledges that the state is obligated to protect biodiversity in Chapter 5, Part 2 'Environment and Natural Resources' Section 69.² The Fourth Schedule of the Constitution prescribes that the national government is responsible for the protection of wild animals in conservation areas, while County Governments are mandated to seeing the welfare of domestic animals. Therefore, the capacity of animals to suffer and hence their sentience, is implicitly recognised in the law.</p> <p>Since the API was first published in 2014, there does not appear to have been any change to the Kenyan legislation with regards to animal sentience. As this report is being written, there is an Animal Welfare and Protection Bill 2019 that is waiting for the approval of Parliament. If passed, the term 'animal' would be defined more broadly than just vertebrates, as it would encompass 'any member of the animal kingdom except human, whether alive or dead, including mammals, birds, reptiles and aquatic animals'. Importantly, the Bill formally recognises animals as sentient (section 5(1)). Moreover, the Animal Welfare and Protection Bill 2019 defines animal welfare as 'how an animal is coping with the conditions in which it lives including good health, comfort, good nourishment, safety, ability to express innate behaviour and freedom from suffering from unpleasant states such as pain, fear or distress'. Such a definition encompasses the criteria of the Five Freedoms.</p> <p>Moreover, various policies have been implemented and acknowledge animal sentience. In April 2015, the Kenya Veterinary Policy was published and it states that animal welfare 'manifests in physical and psychological wellbeing, better performance, improved market access, safe and mutually beneficial companionship'.³ Even if sentience is not cited as such, the document also refers to the Five Freedoms, which is cognizant of sentience. The draft National Livestock Policy as of 2019 also defines animal welfare in the same way and refers to the Five Freedoms.</p>	

¹ <http://extwprlegs1.fao.org/docs/pdf/ken63702.pdf>

² http://www.kenyalaw.org/lex//actview.xql?actid=Const2010#KE/CON/Const2010/chap_5

³ <http://www.kenyamarkets.org/wp-content/uploads/2016/06/Kenya-Veterinary-Policy-January-2015-Draft.pdf>



Analysis

It is positive that Kenya's Prevention of Cruelty to Animals Act 1962 recognises aspects of animal sentience. If passed, the Animal Welfare and Protection Bill 2019 would fully recognise animals as sentient. From this recognition of sentience can stem more stringent animal protection legislations.

Enforcement mechanisms

There are enforcement mechanisms in the Prevention of Cruelty to Animals Act 1962, including sections 3, 4 and 13 which provide that a person guilty of an offence of cruelty to animals, fighting or baiting animals shall be liable to a fine not exceeding 3,000 shillings or to imprisonment not exceeding six months, or to both a fine and imprisonment. The proposed Animal Protection Bill prescribes stiffer penalties.

Key recommendations

- **Building upon the current Prevention of Cruelty to Animals Act, which recognises that animals can suffer, the Government of Kenya is encouraged to publicly recognise animals as sentient beings and to enshrine animal sentience in the law. The Animal Welfare and Protection Bill 2019 formally recognises animal sentience in the law. Therefore, the approval and enactment of this Bill is strongly encouraged.**
- **The Animal Welfare Strategy for Africa talks about the need for Africa-centric narratives about animal welfare. This appears to suggest that, rather than focusing on sentience as the justification to ensure animal welfare, the proponents of animal welfare mainstream the benefits of animal welfare to such values as enhance productivity, profitability and public health. It is envisaged that whereas this approach ensures widespread acceptance of the concept of animal welfare, it will indirectly recognise animal sentience, from the premises that sentience is the capacity of animals to experience emotional and physical pain, which in turn affect the animals' abilities to perform as anticipated by the animal owner. Therefore, the recognition of sentience in Kenyan law may support the socio-economic benefits brought by animals.**

2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation

Ranking	B
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The Prevention of Cruelty to Animals Act 1962 applies to all living vertebrates, including any mammal, bird, reptile, amphibian and fish. Article 3(1) defines acts are considered cruel and are therefore prohibited. Cruelty offences include abandonment, failure to administer veterinary treatment, and the owner of an animal causing unnecessary suffering by omitting to do something. Acts defined as cruel



affect both the physical as well as the mental wellbeing of animals, since any act which 'infuriates or terrifies any animal' is prohibited.

However, Article 3(4) provides exemptions to cruel acts defined in Article 3(1). As such, the coursing and hunting of captive animals, the slaughtering, training and performing an experiment on any animal, as well as the performance of an operation under the Veterinary Surgeons Act are exempt from cruelty considerations.

The Animal Welfare and Protection Bill 2019 recognises all animals as sentient beings. Section 24(1) defines cruelty acts, using the same wording as the Prevention of Cruelty to Animals Act 1962. Section 12(1) defines the duty of a custodian of any animal: among others, the custodian must treat the animal with 'respect and dignity', provide adequate basic needs (e.g. sufficient food, water, space), not subject the animal to 'fear, pain, stress or any form of suffering', provide an appropriate environment to the animal, taking into consideration species-specific behaviours, maintain care during transport, be accountable for anything done to or by the animal and provide veterinary care.

Animal welfare is also a core component of the Veterinary Surgeons and Veterinary Para-professionals Act 2011, which allows for the creation of further regulations regarding animal welfare (section 45(n)).

Analysis

There are various socio-cultural practices in Kenya that create barriers to improving animal welfare, such as bull-fighting, tattooing animals for 'beauty, ritual slaughter or the use of animals in political demonstration.^{4,5}

The Prevention of Cruelty to Animals Act 1962 recognises the suffering of animals as an independent issue and addresses a detailed range of acts of cruelty, both deliberate and negligent. The Ministry of Livestock Development has delegated responsibilities related to the implementation and enforcement of this legislation to the Department of Veterinary Services.

It is positive to see that both the mental and physical wellbeing of animals is considered. However, the scope of the Prevention of Cruelty to Animals Act 1962 is limited, since it only applies to vertebrates. Moreover, the numerous exemptions to what is considered cruel acts signify that animals can be trained for public entertainment, raced, hunted and slaughtered without any considerations paid to their welfare.

It is positive that the Animal Welfare and Protection Bill recognises all animals as sentient, not only vertebrates like in the Prevention of Cruelty to Animals Act 1962. Furthermore, the detailed list of duties incumbent to animal owners reflect that attention is paid both to the physical and the mental wellbeing of animals.

Enforcement mechanisms

⁴ https://www.youtube.com/watch?v=_Zs7TrRk8cs

⁵ <https://www.independent.co.uk/news/world/africa/graffitied-pigs-and-buckets-of-blood-on-the-streets-of-nairobi-as-protests-over-mps-pay-continue-8616264.html>



The Prevention of Cruelty to Animals Act 1962 sets out penalties for breaches, including fines and imprisonment. Sections 3, 4 and 13 provide that a person guilty of an offence of cruelty to animals, fighting or baiting animals or performing experiments on animals without a licence shall be liable to a fine not exceeding 3,000 shillings or to imprisonment not exceeding six months, or to both a fine and imprisonment. Sections 7, 8, 9 and 10 provide that a person guilty of an offence of hunting of injured captive animals, cruel slaughter, cruel training or banned public exhibition of animals shall be liable to a fine not exceeding 2,000 shillings or to imprisonment not exceeding three months, or to both.

The Animal Welfare and Protection Bill 2019 contains stricter legal requirements. Notably, any person who is found guilty of an offence of cruelty to animals is liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding one year, or both.

Key recommendations

- **Animal protection is mandated in Kenya through the Prevention of Cruelty to Animals Act 1962, which details the list of offences punishable by law (section 3). The Government of Kenya would benefit from including a definition of animal welfare in this Act in line with the one from the OIE and explicitly promoting the Five Freedoms.**
- **The Animal Welfare and Protection Bill 2019 includes a definition of animal welfare, which corresponds to the Five Freedoms. The Bill also recognises all animals as sentient. As such, the Government of Kenya is urged to adopt this Bill.**

Goal 2: Presence of animal welfare legislations

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

Analysis of legislation	
Ranking	F
<p><u>Rearing</u></p> <p>Cruelty offences outlined in section 3 of the Prevention of Cruelty to Animals Act 1962 apply to animals used in farming.</p> <p>The Animal Welfare and Protection Bill 2019 includes a section dedicated to farm animals (section 7), which mandates that animals are not caused any suffering. The operator of the farm shall inspect the animals at least three times a day (section 17(2)). Section 20 of the Bill also lays out that all animals kept for the purpose of food for human consumption shall be cared for in a manner that guarantees their welfare.</p>	



Section 19 of the Bill also specifies the requirements for adequate accommodation for animals, which shall allow the animal to stand, turn around, stretch, sit or lie down; engage in natural behaviour; interact with compatible animals. Attention is also paid to temperature and humidity, bedding management, suitable enrichment and waste management.

Moreover, the Veterinary Surgeon and Veterinary Para-professionals Act 2011 (VSVP Act), and its associated Code of Ethics 2015, require the veterinarians (section 15) and the veterinary para-professional (section 17) to take the oath prescribed in the Code of Ethics, which makes it mandatory to ensure the prevention of the suffering of animals, as prescribed in the Oath.^{6,7}

Rearing – pigs

The 1988 Pigs Industry Act⁸ establishes that butchers need to be licenced to be allowed to slaughter pigs (section 11) or to establish a bacon factory (section 12). Section 14 prescribes that each licenced butcher and bacon factory shall keep a record of all the pigs annually slaughtered.

Rearing – broiler chickens

No legislation specifically addressing broiler chicken welfare was found.

Rearing – egg-laying hens

No legislation specifically addressing broiler chicken welfare was found.

Rearing – dairy cattle and calves

Kenya enacted the Dairy Industry Act in 1958, which was amended in 2006.⁹ The Act provides for the registration of primary producers of milk. However, the Dairy Industry Act does not contain welfare-related provisions.

Transport

The Prevention of Cruelty to Animals (Transport of Animals) Regulations 1984 contain requirements on the humane transport of animals, including provisions on safe unloading and loading, overcrowding, vehicle construction and care during transport.¹⁰ Section 37 specifies that the Minister may make regulations prescribing the manner in which animals will be transported.

The Animal Welfare and Protection Bill 2019 provides in section 12(1)(e) and 13 that animals should be transported in a way that minimises the possibility of injury, pain and anxiety.

⁶ <http://kenyavetboard.or.ke/wp-content/uploads/2015/06/veterinary-surgeons-and-veterinary-paraprofessionals-act-20112.pdf>

⁷ <http://kenyavetboard.or.ke/wp-content/uploads/2015/06/CODE-OF-ETHICS-FOR-VETERINARY-SURGEONS-AND-VETERINARY-PARAPROFESSIONALS.pdf>

⁸ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC063609>

⁹ <http://extwprlegs1.fao.org/docs/pdf/ken63519.pdf>

¹⁰ <http://extwprlegs1.fao.org/docs/pdf/ken128739.pdf>

Slaughter

Section 8 of the Prevention of Cruelty to Animals Act makes it an offence to slaughter animals in a cruel manner, including causing unnecessary suffering or slaughtering animals in sight of other animals. However, section 8 contains an exemption to the prohibition on slaughter causing unnecessary suffering, which allows such slaughter provided that it is done by religious methods for private consumption and outside a slaughterhouse. Section 37 specifies that the Minister may make regulations prescribing the manner in which animals will be slaughtered.

The Animal Welfare and Protection Bill specifies that animals shall not be caused pain, suffering or distress before and during slaughter (section 21(1)). All animals used for food shall be stunned with a gun, an electric means or other prescribed 'humane means' (section 21(2)). Section 21(6) highlights that live animals shall not be exposed to the sight of other animals being slaughtered. Moreover, all slaughterhouses shall be inspected annually.

Other relevant legislations

In addition, Kenya enacted in 1965 its Animal Diseases Act, amended in 2012.¹¹ This Act introduces measures that may or shall be taken by public bodies and holders of animals for the control of diseases affecting animals i.e. all stock, ruminant animals, dogs and captive wild animals and any other animal declared by the Minister to be an animal to which this Act shall apply. Holders of animals that have a disease that shall be notified under this Act ("notifiable disease") shall keep the animals affected separated and notify the administrative officer or inspector. The Director of Veterinary Services may declare areas to be affected by a notifiable disease and the Act prescribes various restrictions regarding animals that apply to such areas. The Director of Veterinary Services may also place restrictions on the importation and exportation of animals, prohibit the use of any vaccine or drug for the treatment of an animal disease, or even slaughter of ill animals.

Since the API was first published in 2014, Kenya has enacted temporary a ban on the importation of live poultry, birds, captive wild birds, carcasses, meat, meat products, bone meal, feathers and other poultry products from Uganda as a precautionary measure against the risk of introduction and spread of notifiable fowl plague or avian influenza.¹² This ban is part of the Animal Diseases Act.

Analysis

With regards to the rearing of animals, the Animal Welfare and Protection Bill outlines precise requirements regarding the treatment of animals: structure must be appropriate to enable animals to interact and engage in natural behaviours, which proves that attention is paid to the mental wellbeing of animals.

The Veterinary Surgeon and Veterinary Para-professionals Act 2011 (VSVP Act), and its associated Code of Ethics 2015 should guide farmers to prevent the suffering of animals on the farm, however, there is no direct link between the Act and the Code of Ethics and farming activities.

¹¹ <http://extwprlegs1.fao.org/docs/pdf/ken63506.pdf>

¹² <http://extwprlegs1.fao.org/docs/pdf/ken165296.pdf>



Similarly, the Animal Diseases Act is solely focused on animal health, which is only one aspect of animal welfare. The law appears only concerned about the health of individuals for their market value rather than their intrinsic welfare.

With regards to the rearing of pigs, the Pigs Industry Act serves a commercial purpose rather than helping monitor animal welfare during slaughter. There are no welfare-related provisions in this Act.

With regards to slaughter, the inclusion in legislation of a prohibition on slaughtering animals in sight of other animals shows an understanding of the different ways an animal's welfare can be negatively impacted, including psychological distress. However, section 8 of the Prevention of Cruelty to Animals Act 1962 contains numerous exemptions to the requirement of humane slaughter. In particular, non-stunning slaughter is allowed for religious reasons.

Overall, legal provisions on the rearing, transport and slaughter of farm animals do not go far enough in the protection of animals used in farming. The Department of Veterinary Services, responsible for the implementation of this legislation, is advised to produce secondary legislation or complementary guidelines on other specific welfare issues, including housing, husbandry and breeding standards. There is currently a lack of detailed provisions related to modern farming production systems that are used in Kenya, including broiler, hens, and cattle farming. Inclusion of the Five Freedoms within existing legislation would help to provide a logical framework for the analysis of animal welfare in livestock production systems, allowing for effective improvement of current welfare issues in the industry.

Since the API was first published, the Ministry of Agriculture, Livestock and Fisheries drafted a new national livestock policy in February 2019.¹³ The document acknowledges that intensive livestock production system is practiced in dairy cattle, poultry, pigs, rabbits and non-conventional livestock, such as crocodiles, and underlines that some key concerns relate to animal welfare issues and environmental challenges arising from manure and effluent disposal. The document specifies that 'animal welfare is an integral part of animal health and production', recognising that welfare 'manifests in physical and psychological wellbeing; better performance; and safe and mutually beneficial companionship that result to improved market access'. The document relates to the Five Freedoms by showing that although almost 18 communities in Kenya uphold the freedom from pain, injury and diseases, there is a general low awareness, recognition and compliance with the other fundamental freedoms - freedom from fear and distress; freedom from physical discomfort; and freedom to express normal patterns of behaviours. The Ministry recognises that animal welfare issues are especially downplayed in relation to feeding, housing, transportation and certain cultural sports.

Enforcement mechanisms

Breach of the anti-cruelty provisions in section 3 of the Prevention of Cruelty to Animals Act 1962 is punishable with a fine and/or imprisonment of up to six months. Breach of the prohibition on cruel slaughter in section 8 of that Act is punishable with a fine and/or imprisonment of up to three months. Penalties for breaching provisions of the Prevention of Cruelty to Animals (Transport of Animals)

¹³ <http://www.kilimo.go.ke/wp-content/uploads/2019/02/Draft-reviewed-National-Livestock-Policy-February-2019.pdf>



Regulations 1984 include a fine not exceeding 3,000 shillings and/or imprisonment for a term not exceeding six months.

In the Animal Welfare and Protection Bill 2019, any person who does not respect the criteria of humane slaughter shall be liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding six months or both (section 21(8)).

The VSVP Act Section 38(0) makes it an offense which can attract a fine of up to US\$1,000 or jail term of up to 12 months or both for veterinarians and veterinary para-professionals who contravene this section of the law relating to the registration for veterinary surgeons.

Key recommendations

- In its Prevention of Cruelty to Animals Act, Kenya has provisions prohibiting the slaughtering of animal in a cruel manner, or in front of other animals about to be slaughtered. This is a progressive measure to mainstream animal welfare, which encompasses psychological wellbeing.
- However, the legislation with regards to farm animal welfare is not detailed enough in Kenya. The government is therefore strongly encouraged to enact more specific legislation mandating requirements for rearing of pigs, broiler chickens, egg-laying hens, and dairy cattle.
- Moreover, the Government of Kenya still allows the slaughter of non-stunned animals, conducted outside a slaughterhouse or for religious purposes. This makes the monitoring of such slaughter very difficult. The country would therefore benefit from introducing legislation that prohibits the slaughter of animals who are not stunned. All slaughtering activities shall also take place in a slaughterhouse, which should be regularly monitored by the Veterinary Services. The Animal Welfare and Protection Bill 2019 mandates the stunning of animals prior to slaughter. The Government of Kenya is therefore strongly encouraged to pass this legislation.
- The Animal Disease Act illustrates that concern is being paid to farm animal health. Animal welfare should be promoted for the sake of animals rather than being solely addressed through the lens of animal-based production. The Government of Kenya is encouraged to engage with animal protection organisations to define animal welfare, in alignment with the Five Freedoms outlined by the OIE.

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	F



Cruelty offences outlined in section 3 of the Prevention of Cruelty to Animals Act 1962 are applicable to animals in captivity. Section 7 refers specifically to captive animals that are set free for the purpose of hunting or coursing. Under this section, it is an offence to liberate an exhausted or injured animal, or to liberate an animal in a place exposing it to immediate attack by another animal.

The Prevention of Cruelty to Animals (Transport of Animals) Regulations 1984 can also be applied to the transport of captive animals and includes provisions on care during transport.

Zoos

Section 48 of the Wildlife (Conservation and Management) Act 1976 provides that it is an offence to keep in captivity any live protected animal, game animal or game bird without authorisation by way of a permit. There does not appear to be legislation dealing specifically with the detailed welfare considerations of keeping animals in captivity.

Private keeping of wild animals

The tenth Schedule of the Wildlife Conservation and Management Act 2013 lists the species of wild animals who can be farmed.

The Animal Welfare and Protection Bill 2019 defines a 'companion animal' as a domesticated or a domestic-bred animal, which implies that wild animals cannot be kept as pets. However, there is no explicit prohibition about the private keeping of wild animals.

Fur farming

No legislation directly relating to the private keeping of wild animal has been found.

Analysis

Although there is some existing animal protection legislation applicable to animals in captivity, the government is encouraged to introduce specific legislation for animals in various captive settings, with guidelines on housing and husbandry. Acknowledgement of the specific welfare issues faced by animals in captivity is necessary to enable the welfare of this category of animals to become a mainstream concern of society.

While general cruelty provisions prevent certain acts of cruelty, legislation outlining minimum standards for facilities such as zoos and private collections would be beneficial to ensure that animals are kept in a way that satisfies their physiological and ethological needs.

There is no evidence of a restriction on the creation of private zoos, such as the requirement of a permit to hold wild animals in captivity, other than protected animals or game animals.

The list of animals that may be farmed in the Wildlife Conservation and Management Act is not precise enough (e.g. 'snakes') and may thus encompass endangered species. Moreover, there are no welfare-related provisions as to how these animals may be kept privately.



It is noteworthy that the Kenya Wildlife Service, which is the technical body charged with oversight of wildlife, has a Veterinary Department which is staffed by Veterinarians who are under the control of the Kenya Veterinary Board. These Veterinarians are thus bound by the VSVP Act Code of ethics that requires them to protect animals from suffering.

Enforcement mechanisms

Breach of the anti-cruelty provisions in section 3 of the Prevention of Cruelty to Animals Act 1962 is punishable with a fine and/or imprisonment of up to six months. Breach of the prohibition on hunting a released animal in section 7 of that Act is punishable with a fine and/or imprisonment of up to three months. Penalties for breaching provisions in the Prevention of Cruelty to Animals (Transport of Animals) Regulations 1984 include a fine not exceeding 3,000 shillings and/or imprisonment for a term not exceeding six months.

Contravening the Wildlife (Conservation and Management) Act 1976 includes a fine of 5,000 shillings and/or imprisonment for up to six months.

However, since no legislation has been found on the private keeping of wild animals or on animals used in fur farming, there are no enforcement mechanisms associated to these categories of animals.

Key recommendations

- **There appears to be a general lack of legal provisions applicable to the welfare of wild animals in captivity, apart from basic anti-cruelty provisions included in the Prevention of Cruelty to Animals Act. No legislation regulates keeping animals in captive settings. Therefore, the Government of Kenya is strongly encouraged to enact legislation with specific welfare requirements – such as housing and husbandry – for animals kept in various captive settings.**
- **Moreover, the Government of Kenya is encouraged to introduce a licence system, under which no individual will be able to house wild animals in captivity without the appropriate licence. Registering establishments keeping animals in captivity would enable a regular monitoring of the welfare standards in such establishments and would allow for government intervention when standards are not met.**

5. There are laws that apply to companion animals

Analysis of the legislation	
Ranking	D
<u>Care of companion animals</u>	



Companion animals are covered by the cruelty offences outlined in Section 3(1) of the Prevention of Cruelty to Animals Act 1962, and owners who allow acts of cruelty to their animals are guilty of cruelty offences. Acts of cruelty and failures to act are prohibited in this legislation.

Section 25 of the Prevention of Cruelty to Animals Act 1962 empowers authorities to humanely destroy a diseased or severely injured animal without the owner's consent where it would be cruel to keep the animal alive.

In the Animal Welfare and Protection Bill 2019, section 16(2) specifies that any person keeping or in custody of a companion animal shall ensure that its specific welfare and species needs are met.

Stray animals

The protection of companion animals under this Act is subject to the operation of the Rabies Act 1967, which permits authorised personnel within a rabies control area to 'shoot or otherwise destroy' any stray cat or dog found in a public place, or which is suspected of being infected with rabies. Humane killing methods are not mandated in the legislation, and the use of poison is allowed in the case of an outbreak or suspected outbreak of rabies (section 7(1)), although authorities are advised in section 7(2) to take precautions to prevent injuries to persons and animals other than diseased animals or those suspected of being disease when laying poisons.

Since the API was first published, the Control of Stray Dogs Act came into force in 2019.¹⁴ This Act provides for the humane handling of stray dogs (section 5(2)). Yet, euthanising of stray dogs is still allowed when the owner is unknown, unable or unwilling to remove the dog (Sections 8, 11, 14(b)). This latest legal instrument supersedes the earlier legislation.

Analysis

The Animal Welfare and Protection Bill 2019 requires a more comprehensive duty of care for animal owners, since owners are not only required not to inflict pain to their animals, but also should actively contribute to their wellbeing. This positive duty of care is lacking in the Prevention of Cruelty to Animals Act 1962, which is only reactive to cruelty acts.

Government recommendations on spaying and neutering would more adequately protect the welfare of companion animals in Kenya and would be more closely aligned with international standards. In order to protect the welfare of animals, spaying and neutering can only be done by Veterinary Surgeons who are registered and authorised to practice by the Kenya Veterinary Board.

Despite the 2014-2030 Kenyan strategy on rabies elimination, the culling of stray animals was authorised under the Rabies Act 1967. The permitted use of poison under the Rabies Act 1967 is inhumane and preventing healthy animals from ingesting such poisons is challenging, therefore indiscriminate poisoning is likely to occur. However, culling dogs is never an answer to public safety and should not be allowed. The misconception that culling is the best way to reduce dog populations

¹⁴ <http://www.parliament.go.ke/sites/default/files/2019-05/Control%20of%20Stray%20Dogs%20Bill%2C%202019.pdf>



or stamp out threats to public health causes enormous suffering. Culling is also ineffective, since it has been proven that it does not reduce the number of dogs in the long run.¹⁵ In addition, it should be noted that the World Organisation for Animal Health (OIE) accepts a policy of animal vaccination as the only solution for rabies control.¹⁶

The Control of Stray Dogs Act 2019 removes the allowance of culling and instead authorises the euthanasia of stray animals who are considered dangerous, or whose owners is not found or unwilling or unable to remove the dog. Instead of being euthanised, dogs should be rehomed.

Kenya also has a Strategic Plan for the Elimination of Human Rabies in Kenya 2014-2030.¹⁷ This Strategy relies on sustained mass dog vaccinations, pre and post-exposure prophylaxis and public education until the country is completely free of human dog-mediated rabies. The Strategy acknowledges that culling has 'little impact on rabies elimination'.

Enforcement mechanisms

Breach of the anti-cruelty provisions in section 3 of the Prevention of Cruelty to Animals Act 1962 is punishable with a fine and/or imprisonment of up to six months.

Under the Animal Welfare and Protection Bill 2019, any person who is cruel to companion animals or any custodian of companion animal who does not ensure that its specific welfare and species needs are met commits an offence and shall be liable, on conviction, to a fine not exceeding a hundred thousand shillings or imprisonment for a term not exceeding one year or both.

Key recommendations

- **The Government of Kenya should forbid the current culling practices. The use of poison is particularly cruel for animals, resulting in painful, lingering deaths and should be forbidden. Thus, the Government is strongly encouraged to amend the Rabies Act 1967 that currently promotes the use of poison as bait for ill or suspected ill animals. The Government of Kenya is strongly encouraged to promote humane dog population management, which relies on promoting responsible ownership, mass dog vaccinations and reproduction control programmes. Culling is unnecessary, cruel and has been proven to be ineffective.**
- **With regards to rabies control, the Government of Kenya is highly encouraged to conduct vaccination programmes rather than culling.**
- **The Government of Kenya is encouraged to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. This methodology consists of a full cycle of action, addressing the root causes of**

¹⁵ https://www.worldanimalprotection.org/sites/default/files/int_files/humane-dog-management.pdf

¹⁶ <http://www.oie.int/animalhealth-in-the-world/rabiesportal/prevention-and-control/>

¹⁷ <https://caninerabiesblueprint.org/IMG/pdf/finalkenya-rabies-elimination-strategy.pdf>



conflict between roaming dog and communities. The document is helpful to governments to manage dogs humanely as well as to help communities to live in harmony with dogs.

6. There are laws that apply to animals used for draught or recreational purposes

Analysis of the legislation	
Ranking	D
<p><u>Animals used for entertainment</u></p> <p>The Prevention of Cruelty to Animals Act 1962 defines ‘exhibition’ as ‘an exhibition and any entertainment to which the public are admitted whether on payment of money or otherwise’.</p> <p>Anti-cruelty provisions in section 3 of the Prevention of Cruelty to Animals Act 1962 apply to animals used for draught or recreational purposes. However, section 3(4) provides that nothing in the chapter applies to the coursing or hunting of any captive animal, subject to section 7 (which provides that it is an offence for animals that are liberated for the purpose of hunting or coursing to be liberated in an exhausted or injured state, or to be liberated in a place exposing them to immediate attack by another animal).</p> <p>Section 4 of the Act prohibits causing, promoting or assisting the fighting or baiting of an animal. Section 9 of the Act prohibits the infliction of pain or terror during training of animals for exhibition. It is a criminal offence to excessively use whips or goads, or training appliances that apply heat or electric shocks to the animal.</p> <p>Section 10 prohibits specified public performances involving animals. Throwing ropes or other appliances is prohibited for an untrained animal. Riding, wrestling or fighting with an untrained animal is also prohibited. Rodeos are also forbidden.</p> <p>In the Animal Welfare and Protection Bill 2019, section 30 is worded in the same manner as section 10 of the Prevention of Cruelty to Animals Act 1962. Section 14 lays out that any person who uses any animal for purposes of entertainment in public or in an exhibition or show shall handle and care for the animal in a manner that not cause pain, injury, anxiety or distress to the animal.</p> <p><u>Draught animals</u></p> <p>The Prevention of Cruelty to Animals 1962 does not contain legislation explicitly relating to draught or working animals. However, section 9 prohibits the training of animals in a cruel manner ‘for the purposes of exhibition or not’. As such, Section 9 can be legally seen to apply to working animals as well.</p>	



The Animal Welfare and Protection Bill 2019 specifies that any person using a working animal for 'sports, transport, security or any other purpose' shall 'handle and care for the animal in a manner that does not compromise the welfare of the animal or cause the animal to suffer pain, injury, distress, anxiety, discomfort or exhaustion' (section 14(2)).

Analysis

Legislation regulating the use of animals for entertainment is minimal. Section 3(4) allows for the coursing and hunting of animals. Moreover, section 10 appears limited since it only prohibits fighting with and throwing ropes at 'untrained' animals, while section 3(4) also exempts the training of animals from any welfare considerations. Apart from rodeos and animal fights which are explicitly banned, other uses of animals for entertainment are not mentioned in legislation, and hence are not banned.

The Animal Welfare and Protection Bill 2019 provides a general welfare consideration to animals used for entertainment purposes. However, there is no prohibition of the use of animals for entertainment purposes.

The Prevention of Cruelty to Animals Act could include legislation specific to the treatment of draught animals. The Animal Welfare and Protection Bill 2019 includes a general welfare provision for this category of animals. More species-specific legislation could be enacted.

It has been reported that 400 donkeys are being killed daily in Kenya.¹⁸ A 2017 report from the NGO, The Donkey Sanctuary, illustrates that donkeys' skins are turned into a gelatine, that is then used for traditional medicine in South East Asia.¹⁹

There are several programmes in the country run by NGOs in association with local authorities to promote the welfare of working animals. For example, by the NGO the Brooke in partnership with the Kenya Network for Dissemination of Agricultural Technologies, Practical Action, Vétérinaires Sans Frontières - Belgium, Farming Systems Kenya, Animal Welfare and Public Health, and the Kenya Veterinary Association.²⁰ The Government has also introduced a National Donkey Day at the instigation of a Member of Parliament, which provides a focal point for promotion of animal welfare messages.²¹

Enforcement mechanisms

Under the Prevention of Cruelty to Animals Act 1962, a breach of the anti-cruelty provisions and the prohibition on fighting or baiting animals is punishable with a fine and/or imprisonment of up to six months (sections 3 and 4, Prevention of Cruelty to Animals Act 1962).

Breach of the prohibitions on cruel training and banned public exhibition of animals is punishable with a fine and/or imprisonment of up to three months (sections 9 and 10, Prevention of Cruelty to Animals Act 1962).

¹⁸ <https://www.thebrooke.org/news/donkeys-stolen-killed-their-skins>

¹⁹ https://www.thedonkeysanctuary.org.uk/sites/uk/files/2017-11/under_the_skin_report.pdf

²⁰ <http://www.thebrooke.org/our-work/our-countries2/kenya>

²¹ <https://www.worldanimalday.org.uk/news/view/kenya-national-donkey-welfare-day>

Section 32 of the Act gives the police power to seize animals or vehicles. An officer may detain or seize an animal that appears to be unfit for work due to disease, injury or ill-treatment (as outlined in section 3). A person found working an animal deemed unfit to work may have that animal seized or detained and be liable for the costs of any necessary veterinary treatment.

Under the Animal Welfare and Protection Bill 2019, any person who uses an animal for entertainment or for draught in a manner that compromise the welfare of this animal is liable, on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year or both.

Key recommendations

- **Basic anti-cruelty provisions apply to animals used for draught and recreational purposes through the Prevention of Cruelty to Animals Act 1962. It is positive for animal welfare that animal baiting, fighting and certain performances are forbidden. However, the Government of Kenya would benefit from an outright ban on the use of all animals in circuses and other public performances. Indeed, at present, Section 10 of the Prevention of Cruelty to Animals Act (1962) prohibits cruel practices but only applies to animals who are ‘untrained’. The Government of Kenya is strongly encouraged to implement a comprehensive ban for all animals to perform publicly, whether trained or untrained.**
- **The Prevention of Cruelty to Animals Act contains minimal legislation with regards to animals used for draught. The Animal Welfare and Protection Bill 2019 contains more legal protection for draught animals; hence the government is highly encouraged to pass this law.**
- **The Government of Kenya is strongly encouraged to keep engaging with local NGOs to promote the welfare of working animals.**

7. There are laws that apply to animals used for scientific research

Analysis of the legislation

Ranking	C
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Part III (sections 13 to 23) of the Prevention of Cruelty to Animals Act 1962, ‘Control of Experiments’, provides various restrictions on animal experimentation. Experiments referred to in the legislation include ‘any experiment performed on an animal and calculated to give pain but does not include an operation’. Under this legislation, it is a criminal offence for anyone without a licence to perform an experiment on an animal. All persons performing an experiment using animals must be registered under the Veterinary Surgeons Act or the Medical Practitioners and Dentist Act or shall be under the supervision of someone registered in one of these Acts (section 16). An anaesthetic must be used (section 15), unless to do so would frustrate the purpose of the experiment, in which case a special



permit is needed (section 18). Purposes of experiments are restricted under this legislation. The licence holder must justify its research as including one of the following aims: advancement of human or animal health; discovery of new scientific knowledge; or testing of an earlier discovery. Persons performing experiments are required to comply with the anti-cruelty provisions of section 3 of the Prevention of Cruelty to Animals Act 1962 except where to do so would frustrate the purpose of the experiment (section 3(4)(f)).

Part VI of the Animal Welfare and Protection Bill 2019 addresses the use of animals in experiments. Section 34(1) mandates that animals are kept for experimental purposes only when there are necessary and important reasons for doing so; a minimum number of animals is used; the use of animals for experimental purposes causes the least possible amount of pain, suffering, distress and genetic anomalies or lasting harm. The Cabinet Secretary shall prescribe regulations for animal welfare to be considered a core aspect of all experiments involving animals (section 34(4)). All animals who undergo an experiment must be under the influence of an anaesthetics throughout the duration of the experiment (section 34(7)(c)). All persons performing an animal experiment shall be licensed and facilities using animals for experiments shall be inspected annually. No animal experiment shall be exhibited to the public (section 40).

The VSVP Act and its regulations for academic institutions, also controls the use of animals in research, with an emphasis on animal welfare considerations.²² Section 14(d) defines veterinary research as a practice and section 13 restricts Practice only to persons registered by the Kenya Veterinary Board, which according to VSVP Act Sections 15, 16, and 17 means that they must be veterinary surgeons or veterinary para-professionals.

The Permanent Secretary of the Ministry for Livestock Development is responsible for granting experimental licences. Guidance and codes of practice are envisaged by the Act, enabling the relevant institutions to incorporate animal welfare policies into practice. The Government is invited to confirm whether such guidance and codes have been produced. The Code of Ethics for veterinary professionals and para-veterinary spells out the conditions for research (section 25).²³ It is specified that animal experiments should adhere to the OIE guidelines. The Three Rs principles are also enshrined in legislation.

The Veterinary Faculty of the University of Nairobi and the Institute of Primate Research have created Ethics Committees to enquire whether the use of animals in scientific experiments is strictly necessary. However, these committees have not yet been gazetted since their submission to the National Commission for Science, Technology and Innovation (NACOSTI), which was established under the Science, Technology and Innovation Act (STI) 2013 (revised 2014).²⁴ The guidelines were developed by a committee of experts, in order to fulfil the requirements of Section 6(p) of the STI Act.

²² <http://kenyavetboard.or.ke/wp-content/uploads/2015/06/veterinary-surgeons-and-veterinary-paraprofessionals-act20112.pdf>

²³ <http://kenyavetboard.or.ke/wp-content/uploads/2015/06/CODE-OF-ETHICS-FOR-VETERINARY-SURGEONS-AND-VETERINARY-PARAPROFESSIONALS.pdf>

²⁴

[https://legaloffice.uonbi.ac.ke/sites/default/files/centraladmin/legaloffice/Science%20Technology%20and%20Innovation%20Act%20No.%2028%20of%202013\(1\).pdf](https://legaloffice.uonbi.ac.ke/sites/default/files/centraladmin/legaloffice/Science%20Technology%20and%20Innovation%20Act%20No.%2028%20of%202013(1).pdf)

Analysis

Section 15 and section 3(4)(f) of the Prevention of Cruelty to Animals Act are profoundly detrimental to animal welfare, since they respectively authorise the performance of animal experimentation without any anaesthetics and exempt the experimenter to comply with anti-cruelty legislation.

The Animal Welfare and Protection Bill enshrines the Three Rs principles into law and guarantees that all animals who are used for experimentation are under anaesthetics during the whole duration of the experimentation. Moreover, section 34(3) should be highlighted as a best practice example, since it requires that institutions conducting the same animal experimentation to 'team up' with the already licensed institution. This would therefore save the number of animals used for experimentation.

The current lack of requirements for protocol review by an animal ethics committee presents an obstacle to the improvement of animal welfare. The use of animals in experimentation carries with it an ethical responsibility to ensure their welfare and moral justification of their use. Appointment of such an ethics committee by the government is recommended in order to scrutinise justification for the experiments proposed by licence-holders.

In 2013, an investigation led by Cruelty Free International unveiled the plight of wild-caught baboons being kept in appalling conditions for scientific experiments.²⁵ The fact that wild animals can be captured to then be used for scientific experiments is a significant obstacle to mainstreaming animal welfare. In addition, the conditions in which these baboons were kept reveal a lack of space and a disregard for natural family bonds. This example illustrates that higher welfare requirements needed for animals.

Enforcement mechanisms

Under section 13 of the Prevention of Cruelty to Animals Act 1962, a person, other than a licensee, who performs an experiment, is guilty of an offence and liable to a fine not exceeding 3,000 shillings or to a term of imprisonment not exceeding six months or to both. A person who performs an experiment other than in accordance with the terms of their licence is guilty of an offence and liable to a fine of up to 2,000 shillings and/or up to three months imprisonment (section 14).

In the Animal Welfare and Protection Bill 2019, section 34(6) provides for fines of up to US\$500 or up to six months in prison and 34(9) provides for a fine of up to US\$1000 or up to a year in prison.

Key recommendations

• **The Government of Kenya has some legislation in place to ensure that scientific experiments using animals are only done by licensed individuals. However, the fact that experiments without anaesthesia still take place severely impairs animal welfare. If passed, the Animal Welfare and Protection Bill 2019 would ban this practice. Similarly, Kenya currently allows the capture of wild animals for scientific research, which is negative for animal welfare. The Government of Kenya is thus strongly encouraged to enact a law that would ban any animal experiment which**

²⁵ <https://www.crueltyfreeinternational.org/what-we-do/investigations/experiments-wild-baboons-kenya>



would be conducted on an animal without anaesthesia and would outlaw captures of wild animals bound to be used in research. In addition, the Government of Kenya is encouraged to promote the Three Rs principles – Replacement, Reduction, Refinement – with regards to animal experiments.

- Following the examples of the committees created by the Veterinary Faculty of the University of Nairobi and the Institute of Primate Research, the Government of Kenya would benefit from implementing an animal ethics committee in charge of scrutinising whether there is a valid justification for the licence-holder to use animals for their experiment. Such a committee already exists at the Veterinary Faculty of the University of Nairobi and at the Institute of Primate Research.

8. There are laws that apply to wild animals

Analysis of the legislation	
Ranking	A
<p>Section 3 of the Prevention of Cruelty to Animals Act 1962 prohibits deliberate acts of cruelty towards animals, including hunting, killing or destroying an animal in a manner likely to cause the animal more suffering than necessary. Section 6 makes it an offence to use a net, snare or other capturing device designed to cause unnecessary suffering. Failure to inspect any set traps regularly (at least once a day) is a criminal offence. No further specifications for hunting and killing methods are provided.</p> <p>Part IV of the Wildlife (Conservation and Management) Act 1976²⁶ outlines controls of hunting. Section 23 provides that a person may legally hunt a game animal if in possession of an issued hunting licence. They must also be a professional hunter, be accompanied by a professional hunter or be endorsed by the Director of the Kenya Wildlife Service.</p> <p>Section 32 states that it is an offence to injure a protected animal or game animal without endeavouring to kill or recover the animal at the earliest opportunity, and to report the incident to the Kenya Wildlife Service if the animal is not killed or recovered within 24 hours.</p> <p>Under section 33 of this Act, it is an offence to cause unnecessary suffering to any protected or game animal under any circumstances, or to be found in possession of a maimed or mutilated animal of this category.</p> <p>Part V of the Act is dedicated to trophies and live animals. Section 42 specifies that any person who is in possession of any trophy or of any ivory or rhino horn without having an adequate certificate of ownership shall be guilty of a forfeiture offence. Section 45 makes it an offence to export any live</p>	

²⁶ <http://extwprlegs1.fao.org/docs/pdf/ken106438.pdf>



protected or game animal without an export permit, or through anywhere other than a customs port of entry.

In 2013, a new version of the Wildlife Conservation and Management Act was released, effectively repealing the 1976 Act (section 118).²⁷ This legislation establishes that each county shall have a County Wildlife Conservation and Compensation Committee, in charge of distributing wildlife user rights. Each committee will work with community wildlife association to develop mechanisms to mitigate human-wildlife conflicts.

The 2013 Act also differs from the 1976 legislation as it establishes a Wildlife Endowment Fund (Part V), which includes a compensation scheme for claims of human death, injury, crop and property damage caused by wildlife (section 24(2)).

This new Act also creates a Wildlife Research and Training Institute (Part VII), whose mission is to collect and analyse wildlife data, including data on wildlife disease, to advise on the best conservation policy to adopt.

Part I (section 10) prohibits sport and recreational hunting. The culling of wildlife is authorised as a 'management tool' provided it is used as a last resort after such other management tools such as translocation has been explored' (section 6).

Part IX is dedicated to human-wildlife conflicts. Section 77 provides that any officer may destroy an animal which has been deemed a problem. It is not specified whether the animal shall be killed humanely. In addition, Section 78 allows any person 'in the defence of himself or any other person if immediately and absolutely necessary' to kill or wound a wild animal. The burden of proof to show that killing or wounding the animal was necessary shall lie within the person committing the act (section 78(2)).

The Kenya Wildlife Service (KWS) is charged with conserving and managing Kenya's wildlife under the Wildlife (Conservation and Management) Act 1976 as well as the renewed 2013 Act. The Service has several functions, including promotion of sustainable conservation, advising the Cabinet Department on wildlife policy, strategy and legislation, and undertaking enforcement activities to implement the Act effectively (including anti-poaching and wildlife protection activities). The Animal Protection Department of KWS is the Department of Veterinary Services within the KWS.

Since the API was first published in 2014, new Regulations have been enacted in 2017 on the Protection of Endangered and Threatened Ecosystems, Habitats and Species.²⁸

Analysis

It is positive that wild animals have not been excluded from the main animal protection provisions under the Prevention of Cruelty to Animals Act 1962 (subject to some exceptions). This means that the welfare of individual animals can be considered, as well as the conservation value of entire species populations.

²⁷ <http://extwprlegs1.fao.org/docs/pdf/ken134375.pdf>

²⁸ <http://extwprlegs1.fao.org/docs/pdf/ken170719.pdf>



The current Wildlife Conservation and Management Act is largely focused on wildlife conservation and considers wildlife as a resource to be used. For instance, Part VI section 29 establishes that any licence holder must act 'in accordance with the requirement for sustainable land use'. There is no mention of animal welfare.

By comparison, the 1976 Conservation and Management Act introduced welfare provisions through the prohibition of causing or permitting suffering during hunting activities. The 2013 Act repealed the earlier 1976 version of the Act and does not mention any humane hunting method. In addition, the Act prescribes destroying an animal deemed a problem in the case of human-wildlife conflict (Part IX). Two issues appear with this part of the Act. Firstly, it allows anyone to kill or injure wildlife on the ground of self-defence; however, the burden of proof falls under the person killing the animal, whereas it would be beneficial for animal welfare to have a third party (for instance from the Kenya Wildlife Service) judging whether self-defence could fairly be invoked. Secondly, the Act does not foresee any long-term solutions to human-wildlife conflicts, but solely mandates to kill or injure animals. This appears to be very restrictive and does not promote animal welfare. These challenges can be addressed through the 8th function of the Veterinary Department of the KWS: "Developing and implementing wildlife veterinary policies and guidelines in Kenya".²⁹

Importantly, the Wildlife Conservation and Management Act prohibits all forms of sport and recreational hunting, which includes trophy hunting. This is a very positive measure for animal welfare. Furthermore, the culling of wildlife is only authorised as a last resort, if other solutions such as translocation have been explored. In that regard, the 2013 Wildlife Conservation and Management Act is very progressive in terms of animal welfare.

The Kenya Welfare Service is allocated financial resources for discharging its various responsibilities associated with the management and conservation of wildlife, including enforcement activities under the Wildlife (Conservation and Management) Act 1976. However, there is no evidence of welfare protection in this Act referring to animals that are not listed as protected or game species.

The 2017 Regulations focus on implementing the Convention on International Trade in Endangered Species and focus on species populations, rather than individual animals. There is no welfare provision in these Regulations.

Enforcement mechanisms

Breach of the anti-cruelty provisions in section 3 of the Prevention of Cruelty to Animals Act 1962 is punishable with a fine and/or imprisonment of up to six months. Breach of the prohibition on hunting a released animal in section 7 of that Act is punishable with a fine and/or imprisonment of up to three months. Any person convicted of an offence under section 6 (using a trap that causes unnecessary suffering) shall be liable to a fine not exceeding 500 shillings.

Any person who fails to comply with the provisions of section 32 of the Wildlife (Conservation and Management) Act 1976 shall be liable to a fine not exceeding 10,000 shillings or to imprisonment for a term not exceeding two years, if the animal in question is a dangerous animal. In all other cases,

²⁹ <http://www.kws.go.ke/content/veterinary-services-department>



the person shall be liable to a fine not exceeding 2,000 shillings or imprisonment for a term not exceeding one year, or both.

Any person who contravenes section 33 is liable to a fine not exceeding 5000 shillings, or imprisonment for a term not exceeding 18 months, or both.

In the Wildlife Conservation and Management Act 2013, any person contravening the provision prohibiting sport and recreational hunting.

In 2018, Kenya's Tourism and Wildlife Minister Najib Balala proposed that wildlife poachers face death penalty.³⁰ However, this measure is not in place.

Key recommendations

- Provisions relating to the protection of wild animals are mostly found in the Wildlife Conservation and Management Act, which was renewed in 2013. This latest version, replacing the original Act of 1976, sadly repealed welfare provisions which prohibited cruel forms of hunting such as net or snares. The Government of Kenya is therefore strongly encouraged to enact legislation mandating humane killing methods for hunting and prohibit the cruellest hunting methods.
- However, the Wildlife Conservation and Management Act 2013 constitutes an example for other countries to follow as it bans all forms of recreational or sport hunting, which includes trophy hunting.
- Furthermore, the culling of wildlife is only authorised under the recommendation of the Kenya Wildlife Service, once other wildlife management methods have been exhausted.
- The Government of Kenya is urgently encouraged to implement long-term solutions to human-wildlife conflicts, rather than mandating the destruction or injury of the problem animal.

Goal 3: Presence of effective governance structures and systems

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation

³⁰ <https://www.independent.co.uk/news/world/africa/poachers-kenya-wildlife-death-penalty-capital-punishment-najib-balala-a8349966.html>



Ranking	D
<p>Animal welfare is a devolved function in Kenya. The Fourth Schedule of Kenya's Constitution explains the roles of the two levels of government in promoting animal welfare. The national Government is responsible for the protection of wild animals in conservation areas, while County Governments are mandated to overseeing the welfare of domestic animals including livestock and pets.</p> <p>The Department of Veterinary Services, a sub-department of the Ministry of Agriculture, Livestock and Fisheries, is responsible for animal welfare.³¹ The department aims to prevent and control animal diseases to safeguard human health, improve animal welfare, increase livestock productivity and facilitate domestic and international trade.</p> <p>The Kenya Wildlife Service is responsible for wildlife conservation. Its functions include promoting sustainable conservation, advising the Cabinet Department on wildlife policy, strategy and legislation, and undertaking enforcement activities to effectively implement the Wildlife (Conservation and Management) Act 1976 (including anti-poaching and wildlife protection activities).</p> <p>An Animal Welfare Policy and Legislation Ministerial Taskforce was appointed on 24 July 2012 by the Ministry of Livestock Development for the development of animal welfare policy and legislation in Kenya.³² This Taskforce was appointed to review animal welfare legislation and address the challenges in the regulation and enforcement of current welfare laws. According to Gazette Notice no. 10614, the members of the Task Force were to serve for a period of one year with effect from the date of appointment.</p> <p>The Animal Welfare and Protection Bill 2019 establishes, in section 6, the creation of County Animal Welfare Units for each county government. Each unit comprises one representative of an animal welfare non-governmental organisation and one person 'with interest in the welfare of animals'.</p> <p>Analysis</p> <p><i>Animal welfare is an independent issue, recognised by legislation as a subject of government management and regulation. Although the Department of Veterinary Services is responsible at a governmental level for implementation of the Prevention of Cruelty to Animals Act 1962, there are no other officials mentioned as having involvement from other Ministries. Cooperation between the Department of Veterinary Services and the Kenya Wildlife Service would help to demonstrate that animal welfare is a cross-cutting issue in government policy.</i></p> <p><i>The formation of the Animal Welfare Policy and Legislation Ministerial Taskforce indicates some desire from the government to revise animal welfare policy and legislation to bring it in line with good international status. The Taskforce was meant to receive funding from the government and the animal welfare organisations which pledged to support the process, in order to operationalize it. However, the government did not provide funding, and animal welfare organisations were not able to provide</i></p>	

³¹ http://www.kilimo.go.ke/?page_id=378

³² <http://vetanatomy.uonbi.ac.ke/node/>



sufficient funds, so that it was not able to take off.

A new Task Force was constituted and generated the Animal Welfare and Protection Bill 2019. The current Task Force was not formally gazetted. It was an informal revival of the Task Force of 2012, led by the Department of Veterinary Services and with support from animal welfare organisations, to enable it to drive the process of creating the Bill. This lack of formal installation in part explained, unfortunately, why the Task Force did not attract government funds, beyond the fact that the public servants staffed in the Task Force are paid by the government. Its function and success strongly rely on support from the animal welfare organisations. However, the future of this Taskforce is, at the time of writing, uncertain.

If passed, the Animal Welfare and Protection would ensure permanent representation of animal welfare organisations in each of the County Units responsible for enforcing animal welfare.

Enforcement mechanisms

The responsibilities of relevant government bodies are set out in legislation.

Key recommendations

- The Government of Kenya has allocated resources to animal welfare through the Department of Veterinary Services, in charge of animal welfare. In addition, the Government of Kenya has appointed in 2012 a Ministerial Taskforce dedicated to animal welfare policy and legislation. However, this Taskforce was short-lived, and there is no publicly available evidence of the work that this Taskforce has done. The Government of Kenya is encouraged to promote the work of the new Taskforce in place.

Goal 4: Promotion of international animal welfare standards

10. The Government has incorporated the OIE's guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation

Ranking

E

The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle), stray dog population control, the use of animals in research and education, and working equids.³³

³³ <http://www.oie.int/infographic/StandardsAW/index.html>



The majority of the content of the OIE's guiding principles for animal welfare are covered in Kenyan legislation, albeit without specific reference to the OIE. Provisions related to the transport of animals are contained in the Prevention of Cruelty to Animals (Transport of Animals) Regulations 1984. Section 8 of the Prevention of Cruelty to Animals Act 1962 includes requirements for the humane slaughter of animals for human consumption. Part III (sections 13-23) of the Prevention of Cruelty to Animals Act 1962 restricts the use of animals in research and education. Killing of animals for disease control and control of stray populations are covered in the Animal Diseases Act 1965 and the Rabies Act 1967.³⁴ However, the latter Act is lacking in animal welfare provisions regarding killing methods and actively encourages the use of poison.

The Animal Welfare and Protection Bill 2019 does not refer to the OIE.

Analysis

The current legislation does not include specific regulations for beef cattle and broiler chicken production systems. Inclusion of the Five Freedoms in existing legislation would help to provide a logical framework for the analysis of animal welfare issues in livestock production systems, allowing for effective improvement of current welfare issues in the industry.

The existing legislation has the potential to be effective to raise awareness of animal welfare across the majority of categories included in the OIE animal welfare guiding principles; however, as outlined in previous indicators, promotion and implementation of the legislation by governmental bodies is lacking.

Enforcement mechanisms

There are enforcement mechanisms (fines and imprisonment) for the OIE's standards that are incorporated in legislation.

Key recommendations

- **Kenyan legislation has partially implemented OIE's standards, since it has provisions with regards to the transport and slaughter of animals. However, there are no detailed welfare standards for different categories of farm animals. The Government of Kenya is therefore strongly encouraged to produce legislation with welfare standards regarding broiler chickens and cattle used for beef production, animals used for scientific experiments, stray dog populations and working equids.**
- **The Government of Kenya is encouraged to urgently amend the Rabies Act to prohibit the use of culling and poison as bait to destroy ill or suspected ill animals.**

³⁴ <http://extwprlegs1.fao.org/docs/pdf/ken63512.pdf>



11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

Since the API was first published, the Government of Kenya has endorsed UDAW, through a letter of support from the Ministry of Agriculture, Livestock and Fisheries signed on 29th August 2016. Kenya's support for the UDAW constitutes a useful step into integrating animal protection considerations into different discussion tables, becoming a soft law source for decision makers interested in improving animal protection in the country

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

The UDAW is currently the only international instrument that creates a soft law commitment for countries to acknowledge and respect animal sentience and to work towards ending cruelty and protecting the needs of animals. The Government has expressed full formal support for the UDAW, thus helping to incorporate animal welfare into policy discussions.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- **Since the API was first published in 2014, the Government of Kenya has endorsed UDAW through its Ministry of Agriculture, Livestock and Fisheries in 2016. Kenya should act as an example for other countries to pledge support in principle to UDAW.**

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